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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,225	11/26/2003	Takehiro Nishiie	17271	9178
23389	7590	09/08/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC			KASZTEJNA, MATTHEW JOHN	
400 GARDEN CITY PLAZA			ART UNIT	PAPER NUMBER
SUITE 300				
GARDEN CITY, NY 11530			3739	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/723,225	NISHIIE, TAKEHIRO
	Examiner Matthew J. Kasztejna	Art Unit 3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/20/04 & 11/26/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pressure regulating valve must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Furthermore, it is unclear what reference, if any, is being made to Figure 4.

Claim Objections

Claim 2 is objected to because of the following informalities: it is unclear what part in is being referred to as the contracting member which covers the outer circumference of the mesh tube, as well as covering the cover tube. Figure 2, shows only the mesh tube 38 covered by the cover 39 and no further contracting member covering the cover 39. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the contraction force" in line 11 of claim 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the extension force" in line 12 of claim 5. There is insufficient antecedent basis for this limitation in the claim.

Specification

Applicant refers to the term "universal code" throughout the specification, wherein the spelling should be corrected to read "universal cord".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-13 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S.

Patent Application Publication 2002/0004627 to Takase.

In regards to claim 1, Takase discloses a flexible tube of an endoscope comprising: a mesh tube 38, which is provided to an inserting portion of the endoscope, formed of at least two metal wires in the shape of a mesh, wound with an angle so that the metal wires are not disposed in the direction orthogonal to or parallel to the longitudinal direction of the inserting portion; and a contracting member 37 for generating contraction force in the longitudinal direction of the inserting portion generally with the same magnitude as the extension force in the longitudinal direction of the inserting portion, generated due to the pressure difference between the inside and the outside of the endoscope (see Paragraphs 0048-0058).

In regards to claim 2, Takase discloses a flexible tube of an endoscope, wherein the contracting member covers the outer circumference of the mesh tube, as well as covering a covering tube which generates the contraction force at the time of the autoclave sterilization . (see Fig 2).

In regards to claims 3-4, 7-8 and 12-13, Takase discloses a flexible tube of an endoscope wherein the covering tube is formed of a polymeric material, and wherein a single material or a blend of any of styrene resin, ester resin, olefin resin, and amide resin, is employed for the polymeric material (see Paragraphs 0059-0060).

In regards to claim 5, Takase discloses a flexible tube of an endoscope comprising: a spiral tube 39 formed of metal strips wound in the shape of a spiral; a mesh tube 38 formed of at least two metal wires in the shape of a mesh, wound with an angle so that the metal wires are not disposed in the direction orthogonal to or parallel to the longitudinal direction, for covering the outer circumference of the spiral tube; and a covering tube 37 for covering the outer circumference of the mesh tube; wherein the contraction force is generated generally with the same magnitude as the extension force of the flexible tube, generated due to the pressure difference in the event that the pressure in the inside of the endoscope becomes smaller than the pressure in the outside thereof, thereby suppressing the change in the length of the flexible tube (see Fig. 2 and Paragraph 0073).

In regards to claim 6, Takase discloses a flexible tube of an endoscope, further comprising a pressure regulating valve for maintaining the pressure in the inside of the endoscope within a predetermined value by releasing the pressure regulating valve in the event that the pressure in the inside of the endoscope exceeds the predetermined value as compared with the pressure in the outside thereof, wherein the predetermined value for the pressure regulating value is set so that the contraction force of the flexible tube is generated generally with the same magnitude as the extension force of the flexible tube generated due to the pressure difference in the event that the pressure in the inside of the endoscope becomes less than the pressure in the outside thereof (see Paragraphs 0048-0056).

In regards to claims 9-11, Takase discloses an endoscope comprising: a flexible tube including a mesh tube formed of at least two metal wires in the shape of a mesh, wound with an angle so that the metal wires are not disposed in the direction orthogonal to or parallel to the longitudinal direction, and a covering tube for covering the outer circumference of the mesh tube; a pressure regulating valve for maintaining the pressure in the inside of the endoscope within a predetermined value by releasing the pressure regulating valve in the event that the pressure in the inside of the endoscope exceeds the predetermined value as compared with the pressure in the outside thereof; and contraction force generating means for generating the contraction force of the flexible tube generally with the same magnitude as the extension force of the flexible tube generated due to the pressure difference in the event that the pressure in the inside of the endoscope becomes smaller than the pressure in the outside thereof (see Fig. 2 and Paragraphs 0073 and 0048-0056).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK
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9/2/05


BEVERLY M. FLANAGAN
PRIMARY EXAMINER